IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.791 OF 2007

1. Aminkhan Ahmedkhan
2. Ahmedkhan Chandkhan
3. Smt.Shaimimbi w/o Ahmedkhan
4. Riajkhan Ahmedkhan
5. Ashabi w/i Jave
6. Mahekhkhan Karimkhan
7. Karimkhan Ahmedkhan
8. Ejajkhan Ahmedkhan
9. Sk. Javed Gulamkhan
10. Jahangirkhan Ahmedkhan ..Applicants

Vs.

State of Maharashtra ..Respondents

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Mr.P.M.Chakurkar advocate for applicants
Mr.V.B.Konde-Deshmukh A.P.P. for State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : MARCH 29, 2007

P.C.

1. Heard the learned advocate for the applicants and learned A.P.P. for the State.

2. The applicants are seeking anticipatory bail in C.R.No.I-256 of 2006 of Kalwa Police Station. The said case is under Sections 498-A and 306 read with

Section 34 of IPC.

3. The deceased Nazneen Bano was the daughter of the complainant Gulsher Baig. The applicant no.1 Aminkhan is the husband of deceased Nazneen. The applicant nos.2 and 3 are the father in law and mother in law of the deceased. Applicant nos.4, 7 and 10 are the brothers of applicant no.1. Applicant no.5 is the sister of applicant no.1. Applicant no.6 is the wife of applicant no.7. Applicant no.9 is the husband of applicant no.5. Nazneen was married to applicant no.1 in the year 2000. The complainant has specifically stated that applicant nos.1 to 3 and 5 to 10 and his daughter Nazneen were all residing as a joint family at Kalwa at the relevant time. The complainant has stated that applicant no.1 was not doing any work and he along with other accused persons used to ask Nazneen to get money from her parents. Whenever Nazneen used to come to the house of the complainant at Bhusaval, she used to narrate about the demand and about the mental and physical harassment meted out to her by the applicants. The complainant has further stated that thereafter in 2004, the applicants wanted to purchase a flat at

Kalwa and for that Nazneen was asked to get amount of Rs.1.5 lakh from her father. As the money was not given, the accused persons caused illtreatment to her and mental and physical harassment to Nazneen. Ultimately, on 20.10.2006, Nazneen was taken to hospital as she had consumed poison. Nazneen died in hospital.

4. The learned advocate for the applicant has submitted that the flat had infact already been purchased by the applicant in November, 2004 with their own money and hence, it could not be possible that the applicants could illtreat or would cause mental and physical harassment to Nazneen on account of demand for Rs.1.5 lakh to buy the flat. It is seen that it is an admitted fact that the flat was purchased in November, 2004. The complainant has stated in the year 2004, his daughter was asked to get Rs.1.5 lakh from him to purchase the said flat as the demand was not met the harassment to her increased and Nazneen was even told by the applicants that she should consume poison and kill herself.

5. Thereafter, Mr.Chakurkar, the learned advocate

for the applicants submitted that all the applicants were residing separately and only applicant no.1 was residing with Nazneen. However, the material on record shows that the applicant nos.1 and 3 and 5 to 10 were all residing along with Nazneen as a joint family. The material on record shows that on 18.10.2006, Nazneen consumed insecticides in her matrimonial home. She was taken to one private hospital. Thereafter, she was shifted to Civil Hospital. However, she never regained consciousness at any point of time till she succumbed to poisonous substance at 5.30 a.m. on 20.10.2006. It was only after Nazneen died that the complainant was informed for the first time on phone that the deceased was seriously ill. When the complainant reached Thane at about 3.00 p.m. he was told that the deceased had consumed insecticides and therefore, she was admitted in hospital. However, when the complainant made enquiries, he came to know that Nazneen had already died at 5.30 a.m. on that day. No report was lodged by any of the applicants to the police.

6. Mr.Chakurkar, the learned advocate for the applicants submitted that though the complainant

came to know in the afternoon on that day that Nazneen died on 20.10.2006, the complaint was lodged only on 23.10.2006. He has submitted that this delay in lodging the complaint clearly shows that the complaint is false and is an after thought. As far as this aspect is concerned, the learned A.P.P. states that the complainant had tried to lodge the complaint with the police but, however, as the same was not taken, the complainant approached the Human Rights Commission. Human Rights Commission wrote to the police on the same day and thereafter, the complaint of the father of the deceased was recorded. Thus, at this stage, prima facie, the delay in lodging the complaint appears to have been explained.

7. It is pertinent to note that no report was made by any of the applicants to the police about the incident. The place of the incident is in the house of the applicants where all of them were residing jointly as stated by the complainant. The complaint clearly reveals the illegal demand and mental and physical harassment at the hands of applicants on account of demand being not met with. Looking to all these facts, I do not think that

this is a fit case to grant anticipatory bail to the applicant nos.1 to 3 and 5 to 10.

8. As far as the applicant no.4 Riajkhan Ahmedkhan is concerned, his name does not figure in the complaint lodged by the complainant. The learned A.P.P. stated that in fact Riajkhan Ahmedkhan is Kadar Khan alias Fauzu. However, there is no material that Riajkhan Ahmedkhan in fact, is Kadar Khan or Fouju. The complaint is dated 23.10.2006. Till today, there is no statement of any witness involving Riajkhan Ahmedkhan. Looking to all these facts, I am inclined to grant anticipatory bail to applicant no.4 Riajkhan Ahmedkhan only.

9. In connection with C.R.No. I-256 of 2006 of Kalwa Police Station, in the event of arrest, the applicant no.4 Riajkhan Ahmedkhan to be released on bail in the sum of Rs.20,000/- (Rs. Twenty thousand only) with one or two sureties to make up the said amount. The applicant no.4 to report to concerned police station from 10 a.m. to 2.00 p.m. for a period of ten days and thereafter once in a week till conclusion of the trial.

10. Application for anticipatory in respect of applicant nos.1 to 3 and 5 to 10, is rejected.

11. At this stage, Mr.Chakurkar, the learned advocate for the applicants submitted that applicant no.6 is a lady of 20 years of age and she has recently delivered and hence, he seeks time in respect of applicant no.6 to surrender. The applicant no.6 is granted time till 7.5.2007 to surrender.

12. Application is disposed of.

[V.K.Tahilramani, J.]